

INSIDEEPA.COM

an online news service from the publishers of Inside EPA

Monday, October 25, 2010

search...



Advanced Search

Phosphate Sites Show Effect Of Limited Cleanup Funds On EPA Leverage

Posted: September 7, 2010

EPA officials say a lack of Superfund money is hampering their ability to address fears that tens of thousands of people living on former phosphate mines in Florida are being exposed to dangerous levels of radiation, according to documents obtained by Inside EPA, which activists say underscores the need to reinstate the Superfund tax on industry.

At issue are approximately 10 square miles of former phosphate mining lands near Lakeland, FL, where EPA has taken no cleanup action despite concerns since the late 1970s that the indoor air of homes built on the lands is contaminated with cancer-causing levels of radiation. Sources have said a fight between EPA and the state over the appropriate cleanup standard for the sites is one major reason for the agency's inaction (*see related story*).

But the overwhelming cost of cleaning up the sites -- as much as \$11 billion by some estimates -- has also been a factor, according to documents *Inside EPA* recently obtained under the Freedom of Information Act (FOIA).

The \$11 billion figure estimated to clean up the phosphate sites is almost half of the up to \$24 billion in future hardrock mining cleanup costs that EPA faces across the country and more than nine times the agency's annual Superfund budget of about \$1.2 billion, a 2004 EPA Inspector General report found.

Under Superfund law, EPA has the authority to use its own funds to clean up a site and then sue the parties responsible for the contamination after the fact in order to recoup its costs. This authority often gives industry an incentive to cleanup contamination on its own in an effort to limit costs, the FOIA documents note.

But in the case of the former phosphate mining sites, EPA has no such leverage, in part because of the exorbitant cost to clean the complex residential sites, and in part because of cuts to the agency's Superfund budget in recent years, agency officials say in the documents.

"Because of the high cost and current [Superfund program] funding reductions, it is unlikely that EPA would be able to conduct the cleanups using federal funds," the FOIA documents say. "Therefore, without the ability for the Agency to project its resolve and ability to undertake the work on a fund-lead basis, [industry's] incentive to undertake the work to avoid excessive government costs are severely diminished."

EPA's characterization of the Florida situation is an example of "what people have been saying for some time now [regarding] the decline of the Superfund program," says an environmentalist who supports reinstating the Superfund taxes as a means of boosting EPA's cleanup budget. A lack of adequate Superfund money has "diminished [EPA's] ability to act" and as a result "industry is put in the driver's seat," the activist says.

Renewed Superfund Taxes

Bills that would reinstate the taxes are pending in Congress, although their proponents are skeptical the legislation will be approved this year. But the activist says that because, according to the FOIA documents, more than half the sites were operated by companies that went bankrupt without cleaning up their contamination, the Florida situation also underscores the need for new rules EPA is developing under Superfund law that are intended to ensure companies have the financial resources to clean up their own pollution -- rules that the mining industry opposes.

All of the Florida phosphate sites would likely be considered Superfund "mega-sites," meaning each could cost more than \$50 million to clean up, according to the documents. One Lakeland site -- an upscale development of about 500 homes known as the Oakbridge subdivision -- could cost as much as \$375 million to clean up if strict Superfund standards are applied, or about \$750,000 per dwelling, the documents say.

Spokespeople for EPA and for Oakbridge, a real-estate subsidiary of the Drummond Company, did not respond to requests for comment by press time.



10804774

EPA scientists first warned of residential exposure concerns at the sites in 1979, but EPA Region IV waste officials did not begin studying the issue until 1999, prompted by a report the then-General Accounting Office (GAO) issued that year about the agency's backlog of Superfund sites, according to the documents.

The review found 21 former phosphate mining sites in the Superfund database that might be candidates for EPA's National Priorities List (NPL) -- a distinction that generally indicates a contaminated site is among the country's most pressing and is subject to the agency's most stringent Superfund cleanup standards. "Subsequent discussions with the State of Florida identified numerous other mines not yet included" in EPA's Superfund database, the documents say.

The main concern with the sites is that former phosphate mining lands tend to have elevated levels of naturally occurring radium-226 as a result of the past mining activity, and that thousands of people now live in homes built on top of the former mines. "Many of these homes are believed to have elevated levels of [radium-226] or gamma radiation that exceeds EPA's safe standards," the documents say.

In 2003, Region IV officials considered the potential problem at the Oakbridge subdivision to be so urgent that they planned to assess the site for a possible emergency cleanup action. But to date, the agency has yet to take action at any of the residential sites, or warn the occupants about its concerns.

EPA officials in 2003 internal briefing documents contemplate listing the sites on the NPL, noting that doing so would "enable the use of federal funds for response actions at the sites" and "provide a degree of certainty and confidence that the sites would be addressed at the federal level." Such confidence could be beneficial, the documents say, because lawsuits launched by local activist groups against proposals to build new mines suggest an "eroded public confidence in the phosphate mining industry," the documents say.

Cleanup Liability

However, the mining industry, which under Superfund law would be liable to pay for the cleanup of some of the sites, "is very concerned with the stigma associated with the placement of approximately 20 sites on the NPL," the EPA documents add. "It is likely that placement of the mining sites on the NPL would destroy the mining industry's primary incentive for working with EPA," the documents say.

According to the documents obtained under FOIA, EPA has met with mining industry officials who are "very interested in working with EPA to develop an approach to address EPA's concerns without placement of the sites on the NPL." But the documents also suggest a fundamental disagreement between the agency and the industry officials over at what level radiological contamination becomes a threat -- the same issue that sources say EPA and Florida state officials have quarreled over for years.

The traditional EPA cleanup standard under Superfund dictates concentrations of radium-226 in contaminated soil should not exceed 5 picocuries per gram (pCi/g) of soil, according to a 2006 internal concept paper by the Agency for Toxic Substances & Disease Register *Inside EPA* obtained earlier this year.

But Florida officials consider the 5 pCi/g standard "overly conservative," and argue no cleanup is necessary unless people are receiving a dose of more than 500 millirems of radiation per year, a guideline Florida officials have during internal discussions attributed to the National Council on Radiation Protection.

According to the EPA documents, industry in closed-door meetings with the agency has taken the same position as the Florida state officials, and as a result does not believe any of the sites actually require cleanup.

A spokesman for the Mosaic Company, one of the largest phosphate miners operating in Florida and one of the companies EPA has identified as a potentially responsible party (PRP), expressed a similar position in a statement to *Inside EPA*. "While it is well known that the soil disturbance associated with mining does result in slight elevations of background radiation, there is no data to suggest that those elevations even come close to exceeding natural variations," the spokesman says.

A spokesman for Exxon Mobil, another PRP, confirmed that its corporate predecessors previously owned mines in the Lakeland area, but said only that the company is "looking into this matter."

EPA says in the documents that listing mega sites like the ones in Florida on the NPL would be consistent with a national trend, but adds that "[d]iscussions thus far suggest that the industry would go to great lengths to avoid having phosphate mining sites addressed through the [Superfund] process." The agency also notes that the "phosphate industry is the second largest revenue producing industry in the [s]tate and thus has a large industrial and political coalition."

The documents suggest the sites could be addressed through the so-called Superfund Alternative (SA) process in order to avoid listing them on the NPL against industry's wishes, but environmentalists and some industry groups have historically criticized the SA process as lacking transparency and having inconsistent standards.

Identifying PRPs

EPA at one point identified 15 PRPs linked to the former mining sites in its Superfund database, including Mosaic, W.R. Grace & Co. and Exxon Mobil, according to an undated document obtained under FOIA. It is unclear however, which sites have residents who are potentially being exposed to harmful levels of radiation and exactly how many people might be affected across the region. EPA set aside \$1.2 million in fiscal year 2003 to conduct an aerial survey that would better estimate the level of radiation at various sites and the size of the affected population, but sources say the agency has yet to conduct such a survey. W.R. Grace did not respond to a request for comment.

Sources say some preliminary estimates EPA has conducted suggest about 40,000 people may be affected, but acknowledge that depending on the estimation methodology used, the population could be larger. Using one methodology -- based on "geo-referenced data" obtained from county officials -- 2003 documents estimate that there could be about 40,000 residential parcels on the former mines, which suggests the actual number of affected people could be closer to 120,000, sources say.

According to the documents, EPA believes there may be viable PRPs for 11,000 parcels. Another 25,000 are located on older mines operated by companies that have since gone bankrupt, the documents say. -- *Douglas P. Guarino*

categories: waste

Related News: Waste

2337413

© 2000-2010. Inside
Washington
Publishers
Web Design by Blue
Water Media